IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Notice of Motion No.3699 of 2005
In
M.J. Suit No.6274 of 1999

Aftab A. Kazi. .. .. Plaintiff
v/s.
Altaf F. Kazi .. .. Defendant

Mrs.Amarjit Kaur for Plaintiff.
Mrs.Archana Khan for Defendant.

CORAM : SMT.R.S. DALVI, J.

DATED : 20th March, 2007

P.C. :

1. A Suit was originally filed in this Court and was later transferred to the Family Court. An ex-parte decree has come to be passed in this Court. Pursuant to the decree and later transfer of it to the Family Court, certain execution proceedings have commenced. The decree was passed in July 2000. The execution proceedings bore no fruits until July 2004 when the Defendant/Applicant was arrested and brought before the Court.

2. Upon arrest, the Defendant/Applicant gave an undertaking to the Court to pay Rs.10,000/- per month by way of maintenance for his wife and child. He also gave two sureties, one was of his sister-in-law and the other was of his cousin. He

deposited Rs.5 Lacs out of Rs.18 Lacs, which were then in arrears as payment of maintenance pursuant to the decree. He also paid nine instalments. He thereafter failed to pay. After such defaults, an amount of Rs.1,10,000/- has been paid. This application was taken out in November 2005. After November 2005, various amounts from time to time have been paid until defaults were made.

3. The Advocate for the Defendant/Applicant herself admits that at the time of his arrest and at the time of giving of an undertaking, extensive arguments were made by both the parties and thereafter settlement talks ensued. The settlement talks failed. Payment of instalments stopped. Hence, the execution proceedings commenced. No ad-interim reliefs were granted for staying the execution proceedings. Several months after taking out this application and after the settlement talks have failed and defaults have been committed, an application to stay the execution completely lacks bonafides.

4. In the circumstances, there shall be no ad-interim relief. Execution to proceed.

(Smt.R.S. Dalvi, J.)